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8   **IN THE UNITED STATES DISTRICT COURT**

9   **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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11   DANNIE RAY HILLHOUSE,[1]   No. CIV S-03-0142 MCE CMK P

12   Petitioner,   **DEATH PENALTY CASE**

13   vs.

14   EDDIE YLST, Acting Warden,   ORDER EXTENDING TIME FOR

15   Respondent.   PETITIONER'S RESPONSE TO MOTION TO

16   DISMISS AND SETTING

17   CASE MANAGEMENT CONFERENCE

18   _____/

19   Dannie Ray Hillhouse is a state prisoner sentenced to death after being found

20   guilty of murder with special circumstances. On May 1, 2006, respondent filed a motion to

21   dismiss forty-four of the eighty-eight claims in petitioner's amended habeas petition on

22   procedural grounds, setting the motion for hearing on June 13, 2006. Currently before the court

23   is petitioner's motion for an extension of time to file a response to the motion to dismiss and to

24   hold a status conference and ex parte budget conference on June 13, 2006.

25   _____

26   [1]Pursuant to Federal Rule of Civil Procedure 25(d), Robert Wong is substituted as the
     Acting Warden.

1   Petitioner has represented that respondent has no objection to his motion for an

2 extension of time. Accordingly, the court grants petitioner's motion and his response is due on

3 June 30, 2006, with a hearing date set for July 18, 2006 at 10:00 a.m. The court also grants

4 petitioner's request to hold a case management conference and ex parte budget conference on

5 June 13, 2006 at 10:00 a.m. Counsel for both sides are reminded that the undersigned is aware

6 that travel to Redding involves some hardship and expense and allows telephone appearances

7 through Court Call.

8   At the case management conference the parties should be prepared to discuss the

9 litigation time-table in this case. The court will discuss with both parties how much time each

10 side expects disposing of the current procedural motion will take. The court will also discuss

11 with the parties the time-table for filing an answer after the motion to dismiss is resolved.

12   At the conclusion of this discussion, respondent will be excused from the

13 conference and the court will conduct an ex parte budgeting hearing with petitioner's counsel.

14 Counsel for petitioner should be prepared to discuss the justification for petitioner's proposed

15 budget. As a method to manage and monitor the costs of capital cases, the undersigned will

16 adhere to the Ninth Circuit's Capital Case Budgeting Project. In accordance with this, petitioner

17 will be required to prepare and submit budgets for tasks to be performed by attorneys and

18 paralegals and for expenses incurred for investigative, expert and other services.[2]

19   A separate budget is required for each of the four phases of this litigation: Phase I

20 (appointment, record review and preliminary investigation); Phase II (petition, preparation,

21 answer, and exhaustion); Phase III (merits briefing, fact development, discovery, and motion for

22 an evidentiary hearing); and Phase IV (pre-evidentiary-hearing-discovery, evidentiary hearing,

23 and final briefing). A review of the docket indicates that the instant case has not previously been

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25   [2] To the extent that petitioner's counsel is unfamiliar with the automated budgeting
process, they are encouraged to contact this chambers or the Office of the Circuit Executive for
26 the Ninth Circuit for more information.

1   budgeted, but it is in Phase II of the automated budgeting process. In order to facilitate the ex

2   parte budget discussions on June 13, 2006, the court requires petitioner's counsel to submit,

3   under seal, a proposed Phase II budget by June 6, 2006.
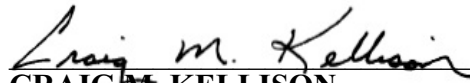
4   IT IS ORDERED THAT:

5   1. Pursuant to Federal Rule of Civil Procedure 25(d),the Clerk of the Court is

6   directed to substitute Robert Wong, the Acting Warden, in the caption of this case;

7   2. Petitioner's response to respondent's May 1, 2006 motion to dismiss is due on

8   or before June 30, 2006;

9   3. A hearing on the motion to dismiss is set for July 18, 2006; and

10   4. Counsel for petitioner shall submit a proposed Phase II budget, consistent with

11   the automated budgeting process developed by the Judicial Counsel, by June 6, 2006.

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13   DATED: May 23, 2006.

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                                               CRAIG M. KELLISON
16   UNITED STATES MAGISTRATE JUDGE

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